

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

AVERILL BARKHOUSE and  
JODY BARKHOUSE,

Plaintiffs,

v.

Civil Action No. 05-11660 NG

DELTA AIR LINES, INC. and  
GLOBEGROUND NORTH  
AMERICA LLC,

Defendants.

**JOINT MOTION TO LIFT STAY**

The plaintiffs Averill and Jody Barkhouse (collectively “Barkhouse”), together with the defendants Delta Air Lines, Inc. (“Delta”) and GlobeGround North America, LLC (“GlobeGround”), hereby move to lift the Order of administrative stay in this matter. As grounds, the parties state the reason for the stay has been resolved by stipulation. Additionally, lifting the stay will allow the parties to conduct discovery and resolve the case by settlement or trial.

**BACKGROUND**

This case arises out of Barkhouse’s round-trip air travel from Halifax, Nova Scotia to Atlanta, Georgia, with a stopover in Boston, in April and May 2003. Barkhouse is a Canadian citizen who, in addition to being a quadriplegic at the time, traveled on Delta’s air carrier which had contracted with GlobeGround for Skycap Services. On his return flight, Barkhouse claims he broke his hip when Delta or GlobeGround personnel, or both, “dropped” him during his

transfer from a seat to his wheelchair in Boston. He further claims to have incurred significant disabling injuries as a result of that incident.

### **ARGUMENT**

The plaintiff filed suit in the Massachusetts Trial Court in April 2005. Delta removed the case, pursuant to 28 U.S.C. § 1441, in August 2005. Shortly thereafter Delta filed a Voluntary Petition for relief in the United States Bankruptcy Court for the Southern District of New York. Delta filed a Notice of Automatic Stay in this court in September 2005 and since then the court issued an Order of Administrative Stay. Most recently, the plaintiff and Delta stipulated to modify the automatic stay, filing a Stipulation to that effect in the Bankruptcy Court on January 26, 2006. Since then, the plaintiff and Delta have served their Automatic Disclosures in this case under Rule 26 and are prepared to undertake formal discovery.

### **CONCLUSION**

WHEREFORE; the parties respectfully request that this Honorable Court:

1. Lift the October 24, 2005 Order of Administrative Stay;
2. Schedule the case for a Rule 16 Conference; and
3. Allow the parties to complete discovery.

Averill Barkhouse and Jody Barkhouse  
By their attorneys,

GlobeGround North America, LLC  
By its attorneys,

/s/ Kevin C. Cain  
Kevin C. Cain, Esquire  
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/s/ Helen E. Tsingos  
Helen E. Tsingos, Esquire  
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Delta Air Lines, Inc.  
By its attorneys,

/s/ Thomas R. Murphy  
Thomas R. Murphy, Esquire  
BBO No. 546759  
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Tel: 617-770-2900

Dated: March 30, 2006

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